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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

M-J-M-A-; Victor CRUZ GAMEZ,

Plaintiffs,

v.

JULIO HERNANDEZ; TODD LYONS; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE,

Defendants.

Case No.: 6:25-cv-02011-MTK

SUPPLEMENTAL BRIEFING CONCERNING USE OF PREVIOUSLY EXECUTED ADMINISTRATIVE WARRANTS IN IMMIGRATION PROCEEDINGS

Pursuant to the Court's September 18, 2026, order, Defendants submit this supplemental brief.

"On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Additionally, "[the] Attorney General at any time may revoke a bond or parole authorized under subsection (a), *rearrest the alien under the original warrant*, and detain the alien." 8 U.S.C. § 1226(b) (emphasis added); *see Marufov v. Hagan*, No. 26-cv-00970, 2026 WL 1030424, at *3 (D. Colo. Apr. 16, 2026) (finding arrest lawful where the petitioner was rearrested on original warrant executed in 2024); *see also* 8 C.F.R. § 236.1(b)(1) ("At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest.").

In *Cortez v. Detroit District Director, ICE and ERO*, No. 1:26-cv-222, 2026 WL 1077478, at *4 (S.D. Ohio Apr. 21, 2026), the court addressed the differences between the execution of a criminal warrant and an administrative immigration warrant, ultimately finding that the petitioner's detention did not violate the Fourth Amendment. There, the court noted how once a criminal warrant is executed, it is exhausted. *Id.* (citing *Carlson v. Landon*, 342 U.S. 524, 546 (1952)). However, the court declined to apply this principle in the immigration context because 8 U.S.C. § 1226(b) expressly allows for rearrest under the original warrant. *Id.* Additionally, the court relied on the Supreme Court's previous statement "that a 'fundamental

premise of immigration law' is that '[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.'" *Id.* (quoting *Demore v. Kim*, 538 U.S. 510, 521 (2003) (citations omitted)).

As illustrated by the above authorities, administrative immigration proceedings are distinct from criminal proceedings, and ICE need not issue a new warrant when it rearrests a noncitizen who was previously arrested pursuant to that same warrant.

Respectfully submitted this 20th day of September, 2026.

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